



United States Department of the Interior

BUREAU OF RECLAMATION MID-PACIFIC REGION

PUTAH RESOURCE AREA - LAKE BERRYESSA
5520 Knoxville Road
Napa, California 94558

OPERATIONAL POLICY NO. 11 (REVISED - PER MP-420 - 6/9/86)

Subconcession Development Policy

- A. Application: This policy applies to all future subconcession agreements entered into by the concessionaires of the seven concession areas at Lake Berryessa with the exception of those subconcession agreements involving consignment sales.
- B. Authority: Section 601 of Public law 93-493 which authorizes the Secretary of the Interior to administer the Federal land and water areas at Lake Berryessa in such a manner that, in his opinion will provide for public recreational use and enjoyment; and the various concession agreements now in existence.
- C. Definitions:
1. Concession agreement - instrument used by the Government to authorize individuals and/or corporations to conduct business on Federal lands for the expressed purposes of providing recreational facilities and services to the general public.
 2. Concessionaire - an individual or entity that has met the criteria to qualify as such and has been approved to enter into a concession agreement with the Government to provide facilities and services as so designated.
 3. Subconcession agreement - a contract between a concessionaire and a subconcessionaire permitting the subconcessionaire to provide a service or conduct a business in the concessionaire's concession area.
 4. Subconcessionaire - an individual or entity who is a party to a subconcession agreement.
 5. Franchise Fees - fees established in the concession agreement which the concessionaire will pay to the Government for the use of Federal land on which he is conducting a business.
 6. Consignment sales - sales of products which a concessionaire or subconcessionaire sells under consignment from another individual.

D. General Policy Statement: Concessionaires may enter into subconcession agreements permitting subconcessionaires to provide services and conduct businesses which the concessionaire is permitted to provide and conduct pursuant to the concessionaire's concession agreement, provided such subconcession agreements are approved by Reclamation and comply with the following requirements.

E. Criteria:

Subconcession agreements must require the subconcessionaire to:

1. Comply with all the provisions of the concession agreement.
2. Adjust his operation if necessary due to the fluctuations of the water level of Lake Berryessa between 253' and 455' which results from operation of the lake to serve other purposes
3. Obtain public liability insurance at such rates as normally found for such business enterprises and as agreed upon by the concessionaire. Reclamation is to be identified as being co-insured along with the concessionaire. Reclamation is to receive 30-days notice prior to the cancellation of the insurance.
4. Report his gross earnings to the concessionaire quarterly in such a manner as the concessionaire feels is sufficient to permit the concessionaire to report such earnings to Reclamation.
5. Pay the concessionaire a franchise fee not less than the same percentage of the subconcessionaire's gross earnings as the concessionaire is required to pay to the Government of the concessionaire's gross earnings.
6. Have all prices he charges approved by Reclamation. Customer complaints concerning high prices can precipitate a review of all subconcessionaire prices by Reclamation. If Reclamation determines that prices are higher than normally found for such facilities or services, Reclamation may require the subconcessionaire to reduce his prices.
7. Allow the concessionaire to assume the performance of the service or conduct the business permitted therein if the subconcessionaire's performance is found to be inadequate by the concessionaire or Reclamation.
8. Obtain prior Reclamation approval of any assignment or other transfer of subconcessionaire's rights, privileges or obligations to a third party.

9. Indemnify and hold Reclamation harmless from any and all liability on account of property damage, personal injuries or death resulting from the subconcessionaire's performance of the subconcession agreement.

F. Review of Proposed Subconcession Agreements

1. Although subconcession agreements are contracts solely between a subconcessionaire and a concessionaire, the subconcession agreement shall contain a concurrence or approval line for Reclamation's signing.
2. Concessionaires submitting subconcession agreements for review are encouraged to submit them 30 days prior to the planned starting date of the subconcession operation. Sufficient lead time is essential in order to avoid delays in starting a new subconcession operation.
3. Reclamation will encourage proposed subconcession operations involved with consignment activities to locate on adjacent private lands rather than on Government lands and require them to do so for such sales that are inconsistent with water oriented recreation activities.

This policy will become effective on August 15, 1986.

Approved by:

[S] Vern Smith

August 15, 1986

Park Manager
U.S. Bureau of Reclamation

Date